

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

EVELYN MAUS,

PLAINTIFF,

VS.

WALGREEN CO.,

DEFENDANT.

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CIVIL ACTION NO. 1: 21-CV-472

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332 and § 1446, Defendant, Walgreen Co. (hereinafter “Walgreens” or “Defendant”) files this Notice of Removal from Cause No. 21-0623-C26 from the 26th Judicial District Court, Williamson County, Texas. In support of this Notice of Removal, Walgreens respectfully shows the Court as follows:

INTRODUCTION

1. On April 30, 2021, Plaintiff, a citizen and resident of Texas, filed her Original Petition in the 26th Judicial District Court, Williamson County, Texas, Cause No. 21-0623-C26, which names Walgreens, a citizen of Illinois, as the only Defendant. Plaintiff seeks to recover damages for injuries she believes she suffered due to the alleged negligence of Defendant. More specifically, Plaintiff alleges that she suffered injuries when “she stepped on a slippery object on the floor of the store causing her to trip and fall.” *See* Plaintiff’s Original Petition, at Sec. IV, attached hereto as Exhibit B.

2. Walgreens was served on May 6, 2021. *See* Exhibit B.

3. In the Petition, Plaintiff specifically pleads that “she seeks only monetary relief between \$250,000 and \$1,000,000 including damages of any kind, penalties, costs, expenses,

pre-judgment interest, and attorney fees.” Ex. B, at Sec. VI. Based on Plaintiff’s statement of damages, Plaintiff asserts an amount in controversy which exceeds the \$75,000.00 minimum threshold required for removal.

4. Pursuant to 28 U.S.C. §1446(b), this Notice of Removal is timely filed within thirty days after service on Defendant of Plaintiff’s initial pleading.

BASIS FOR REMOVAL

5. Removal is proper because there is complete diversity of citizenship between the parties, no defendant is a citizen of the state in which the action was brought, and the amount in controversy exceeds the sum of \$75,000, exclusive of interest and cost. 28 U.S.C. §1332(a); 28 U.S.C. §1441(b)(2).

A. Diversity of Citizenship

6. On April 30, 2021, the date of the filing of this action, and at all times hereafter, up to and including the present, Plaintiff was and is a citizen of Texas residing in Texas.

7. Defendant Walgreens was and is now a foreign corporation not incorporated under the laws of the state of Texas nor having its principal place of business in the state of Texas. Defendant is an Illinois Corporation with its principal place of business at 200 Wilmot Rd., Deerfield, IL 60015.

8. A corporation is deemed to be a citizen of any state in which it has been incorporated and of the state where it has its principal place of business. 28 U.S.C. § 1332(c)(1). The principal place of business is where the corporation actually directs, controls, and conducts its business. *Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1190-92 (2010).

9. Accordingly, there is complete diversity of citizenship between Plaintiff and Defendant.

10. Diversity existed both at the time of filing of Plaintiff’s Original Petition and at the

time of filing of this Notice of Removal.

B. Amount in Controversy

11. In the Petition, Plaintiff specifically pleads that “she seeks only monetary relief between \$250,000 and \$1,000,000 including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees.” Ex. B, at Sec. VI. Based on Plaintiff’s statement of damages in her Petition, Plaintiff clearly seeks damages in excess of the minimum \$75,000.00 jurisdictional limits of the federal courts. 28 U.S.C. § 1446(c)(2). As a result, the \$75,000 amount in controversy requirement is fully satisfied.

C. Venue

12. The United States District Court for the Western District of Texas, Austin Division, embraces the county in which the state court action is now pending. Thus, this Court is a proper venue for this action pursuant to 28 U.S.C. §§124(d)(1) and 1441(a).

D. Timing of Removal

13. This action was originally commenced on April 30, 2021, in the 26th Judicial District Court, Williamson County, Texas, Cause No. 21-0623-CV26. *See* Ex. B. Walgreens first received a copy of Plaintiff’s Original Petition when Walgreens was served on May 6, 2021. *See* Ex. B.

14. Pursuant to 28 U.S.C. §1446(b)(1), this Notice of Removal is timely filed within thirty days of Defendant’s receipt of Plaintiff’s Original Petition.

E. Consent

15. Walgreens is the only Defendant in this action. Thus, all named and served defendants consent to the removal of the Lawsuit. 28 U.S.C. § 1446(b)(2)(A).

F. Jury Demand

16. Plaintiff and Defendant have requested a jury in the state court action.

G. State Record

17. The following documents are attached hereto:

Exhibit A – Docket Sheet

Exhibit B – Plaintiff’s Original Petition

Exhibit C – Defendant’s Answer to Plaintiff’s Original Petition

Exhibit D – List of Counsel of Record

There are no orders signed by the state court judge.

CONCLUSION & PRAYER

For the reasons stated above, Defendant prays that the action now pending in the 26th Judicial District Court, Williamson County, Texas, as described herein, be removed to the United States District Court for the Western District of Texas, Austin Division.

Respectfully submitted,

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By: /s/ Stephen T. Dennis

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**ATTORNEYS FOR DEFENDANT
WALGREEN CO.**

CERTIFICATE OF SERVICE

I hereby certify that on May 27th, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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/s/ Stephen T. Dennis
STEPHEN T. DENNIS